

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
Plaintiff,	)	<b>8:12CR18</b>
	)	
vs.	)	<b>ORDER</b>
	)	
<b>ENRIQUE CASSILLAS,</b>	)	
	)	
Defendant.	)	

This matter is before the court on the government's Second Supplemental Response to Defendant's Motion to Suppress (Filing No. 29). Defendant Enrique Cassillas (Cassillas) has filed a motion to suppress law enforcement's search of Cassillas' cellular phone without a search warrant after Cassillas' arrest on December 15, 2011 (Filing No. 19). The motion is scheduled for an evidentiary hearing before the undersigned magistrate judge at 2:00 p.m. on May 29, 2012. The government has filed a response to the motion together with two supplemental responses (Filing Nos. 23, 28 and 29). In the Second Supplemental Response the government waives the right to use the contents or evidence retrieved and obtained from Cassillas' cellular telephone as a result of the contested search on December 15, 2011, during its case-in-chief and would only use, if at all, for impeachment purposes. The government suggests that any issue regarding such use of the evidence should be reserved for trial. Government's counsel has conferred with counsel for Cassillas and represents that Cassillas' counsel concurs with the government's analysis. As such, the government urges the court to deny Cassillas' motion to suppress as moot and cancel the evidentiary hearing scheduled for May 29, 2012.

Upon consideration, the evidentiary hearing on Cassillas' motion to suppress (Filing No. 19) is canceled and the undersigned magistrate judge will recommend to Chief Judge Smith Camp that Cassillas' motion to suppress be denied, without prejudice, as moot.

**IT IS ORDERED:**

The evidentiary hearing on Cassillas' motion to suppress (Filing No. 19) is canceled.

**IT IS FURTHER RECOMMENDED TO CHIEF JUDGE LAURIE SMITH CAMP** that Cassillas' motion to suppress (Filing No. 19) be denied, without prejudice, as moot.

DATED this 25th day of May, 2012.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge